Office Supreme Court
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JOHN T. FEY, Clerk

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1957

No. 271

UNITED MFG. & SERVICE CO.,
(Now by change of name
UNILECTRIC, INC.),

Plaintiff-Petitioner,

vs.

HOLWIN CORPORATION

Defendant-Respondent.

REPLY BRIEF FOR PETITIONER IN SUPPORT OF PETITION FOR CERTIORARI

IRA MILTON JONES
JAMES R. CUSTIN
110 East Wisconsin Avenue,
Milwaukee 2, Wisconsin
Counsel for Petitioner

HAMMERSMITH-KORTMEYER CO.
MILWAUKEE

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CONCERNING POINTS I AND II OF RESPONDENT'S BRIEF

Point I of respondent's reply brief says, in substance, that the courts below have held that fraud was not proved in this case. Point II of the reply brief argues that the evidence which proves fraud is not in the record and should therefore be disregarded as a basis for granting certiorari. What respondent omits to say is that the evidence which proves fraud was offered to the trial court but was excluded

Significantly, respondent does not deny that the excluded evidence outlined in the offer of proof, if admitted, would have established that Holloway and/or Loughman committed a fraud upon the Patent Office. By saying nothing about the exclusion of this evidence respondent avoids mentioning the important questions of law raised by its exclusion—questions which are heavily charged with considerations of public policy but which have never been decided by this Court.

Thus respondent's brief, in what it significantly omits to say, concedes that certiorari should be granted in order to give this Court an opportunity to pass upon the unsettled questions involved in the defense of "unclean hands".

CONCERNING POINT III OF RESPONDENT'S BRIEF

Respondent has made no attempt to answer petitioner's demonstration (Petition, pages 16-22) that the courts below have decided the issue of file wrapper estoppel in this case in a way that conflicts with the decisions of this Court and of other Courts of Appeals. Instead, respondent merely quotes that portion of the decision of the Court of Appeals for the Seventh Circuit which applies an obscure and inapplicable rule of law to the very ordinary facts of this case.

Respondent does not cite any case wherein that rule was applied to a set of facts like those in the file history of the Holloway patent. Thus respondent, by its silence, concedes that the rule on file wrapper estoppel relied upon by the court below is an extraordinary one, and it follows that the question of its applicability to this ordinary case is in itself a point upon which this Court should pass. Respondent's brief thus presents no reason why certiorari should not be granted on the issue of file wrapper estoppel.

CONCLUSION

Respondent's reply to the Petition for Certiorari does not answer any argument set forth in the petition. On the contrary, respondent's brief emphasizes that the petition for certiorari should be granted.

Respectfully submitted,

IRA MILTON JONES
JAMES R. CUSTIN
110 East Wisconsin Avenue,
Milwaukee 2, Wisconsin,
Counsel for Petitioner

August 7, 1957.

WESTINGHOUSE ELECTRIC CORPORATION **MANSFIELD WORKS, MANSFIELD, OHIO, U.S.A.**

ELECTRIC APPLIANCE DIV. REFRIG. CAB.

LAMP SOCKET COMPL

ALL DIMENSIONS ARE IN INCHES.

SCALE 1:1

DWG. No. 5-C-3580

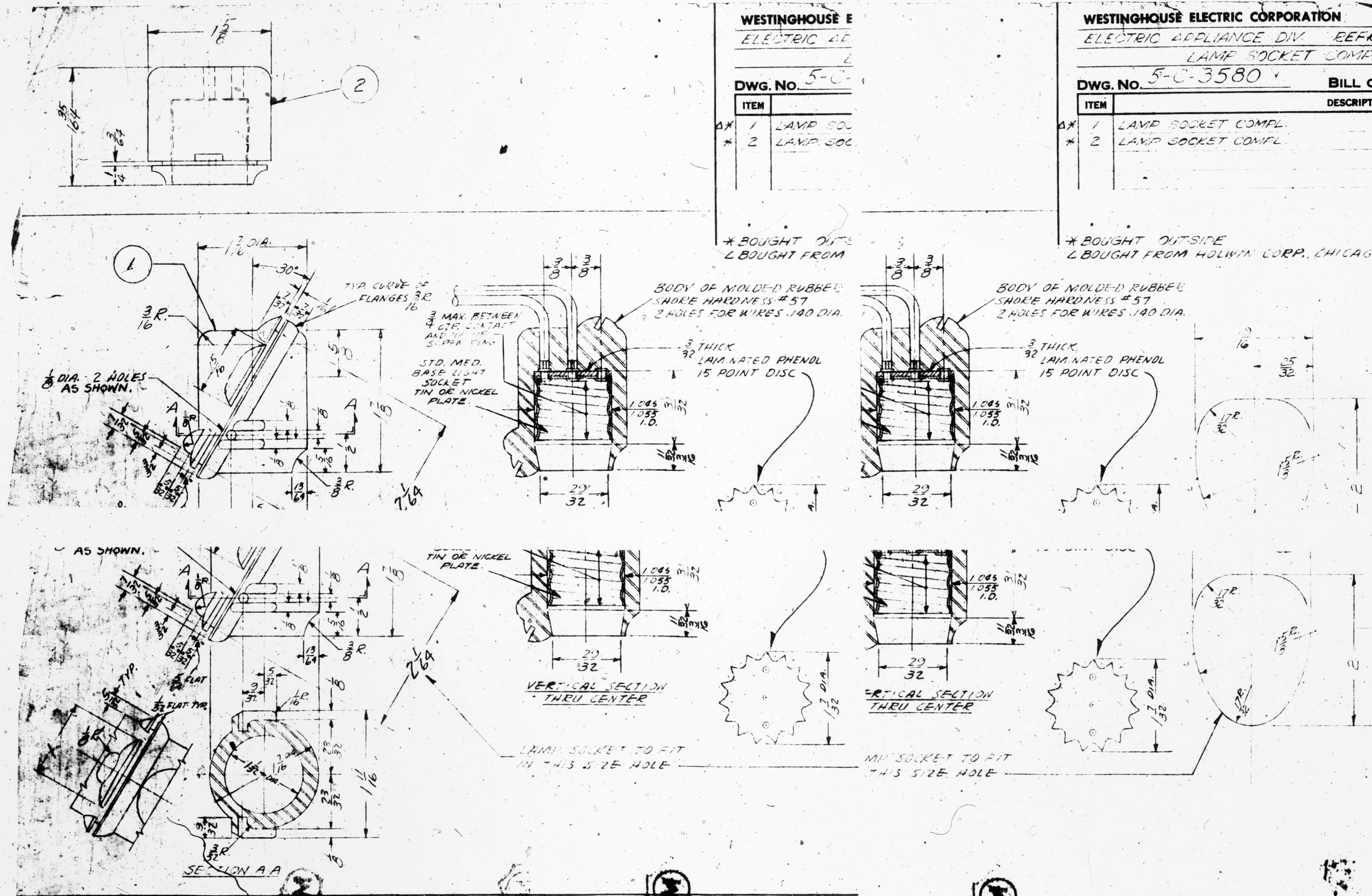
BILL OF MATERIAL

	ITEM	DESCRIPTION AND MATERIAL	STYLE NO.	REQ	REF. DWG.
Δ*	1	LAMP SOCKET COMPL.	1385300	1	
*	2	LAMP SOCKET COMPL.	1385485	1	

* BOUGHT OUTSIDE

∠ BOUGHT FROM HOLWIN CORP., CHICAGO ILL. THEIR PART NO. 4100

WESTINGHOUSE E
ELECTRIC AE
DWG. No. 5-C-
1 LAMP SOC
2 LAMP SOC
* BOUGHT OUTS
∠ BOUGHT FROM


1 5/8
2
35/64
3/64
1/4
1
1 1/16 DIA.
30°
TYP. CURVE OF FLANGES 3/16 R.
3/16 R.
1/8 DIA. 2 HOLES AS SHOWN.
A
A
7 1/64
2 7/64
13/64
3/8 R.
5/32 FLAT
3/32 FLAT TYP.
TYP.
SECTION A-A
1 11/16
23/32
3/8
3/8
3/4 MAX. BETWEEN CTR. CONTACT AND TOP OF SCREW RING
STD. MED. BASE LIGHT SOCKET TIN OR NICKEL PLATE
BODY OF MOLDED RUBBER SHORE HARDNESS #57 2 HOLES FOR WIRES .140 DIA.
3/32 THICK LAMINATED PHENOL 15 POINT DISC
1.045 1.055 I.D.
1 3/32
11/64
29/32
VERTICAL SECTION THRU CENTER
1 1/32 DIA.
LAMP SOCKET TO FIT IN THIS SIZE HOLE
25/32
17/32 R.
1 5/32 R.
2

ALLOWABLE VARIATION IN DIMENSIONS UNLESS OTHERWISE SPECIFIED ON, FIRST, THE DRAWING, OR, SECOND, THE MATERIAL SPECIFICATION.

BASIC DIMENSIONS	FRACTIONS + OR −	DECIMALS + OR −
UP TO 1/4	1/128	.005
ABOVE 1/4 TO 6	1/64	.005
ABOVE 6 TO 24	1/32	.010
ABOVE 24	1/16	.015

IT.	CHANGE
2	D.295989-A WAS NOT ON. N.R.F. 10-6-47
3	CH.L 9634-A REVISED TO AGREE WITH SUPPLIER DWG. 11/18/47
4	CH.L 9734-A IN VERTICAL SECTION DIM (11/32) WAS 1/32. "LAMINATED PHENOL DISC" WAS FIBER INSULATING DISC. "TIN OR NICKEL PLATE" WAS NOT ON NOTE "STD. MED. ETC." N.R.F. 2-2-48
5	CH.L 9838-A IN SIDE VIEW 3/16 R AT TOP WAS BOTH ENDS. AT BOTTOM 3/8 R. DIM'S WERE NOT ON. TOP VIEW OF 3/32 THICK LAMINATED PHENOL 15 POINT DISC WAS NOT SHOWN. 2-4-48
6	IN VERTICAL SECTION 3/4 MAX. DIM. BETWEEN CTR. CONTACT AND TOP OF SCREW RING WAS NOT ON. 6-30-48

D.295984-A

DWG. STARTED N.R.F. 7/10/41

DWG. FINISHED N.R.F. 7/18/41

TRACING CHECKED

DESIGN APPROVED

5-C-3580